

**BYLAWS
OF
MITCHELL LOFTS HOMEOWNERS ASSOCIATION,
an Arizona nonprofit corporation**

ARTICLE I

GENERAL PROVISIONS

Section 1.01. Name. The name of this nonprofit corporation is Mitchell Lofts Homeowners Association (“Association”).

Section 1.02. Known Place of Business. The known place of business of this corporation will be located initially at 14300 North Northsight Blvd., Suite 219, Scottsdale, Arizona 85260; however, meetings of Members and Directors may be held at any other place within the State of Arizona that may be designated by the Directors.

Section 1.03. Defined Terms. Terms used but not defined in these Bylaws will have the same meanings specified in the Condominium Declaration for Mitchell Lofts Condominiums, a condominium, recorded in the Official Records of Maricopa County, Arizona (“Declaration”). Terms used in these Bylaws but defined in the Declaration include, but may not be limited to, the following: Common Expense Assessment, Special Assessment, Declarant, Common Elements, Member, Condominium Documents, Period of Declarant Control, Condominium, First Mortgagee, Unit Owner, Unit, and Rules.

Section 1.04. Conflicting Provisions. If there is any conflict between the Articles of Incorporation (“Articles”) for the Association and these Bylaws, the terms of the Articles will control. In the case of any conflict between the Declaration and these Bylaws, except with respect to specific provisions contained in Article VI of these Bylaws, the Declaration will control.

Section 1.05. Corporate Seal. The Association may have a corporate seal in a form approved by the Board.

Section 1.06. Designation of Fiscal Year. The fiscal year of the Association will begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year will begin on the date of incorporation of the Association and end on the 31st day of December.

Section 1.07. Books and Records. The Association will keep and maintain those books and records required under Arizona Revised Statutes (“A.R.S.”) § 10-11601 *et seq.* The books and records of the Association (including the Condominium Documents) will be available for inspection by any Member or the Member’s authorized agents during reasonable business hours

for a proper purpose at the known place of business of the Association as permitted under A.R.S. § 10-11602 through § 10-11605, inclusive. The books and records of the Association may be withheld from disclosure for any of the reasons specified in A.R.S. § 10-11602.F.

Section 1.08. Amendment. These Bylaws may be amended by a vote of the Members that are present in person or by proxy at a regular or special meeting of the Members and that have greater than 50% of the total number of eligible votes, regardless of class.

Section 1.09. Open Meetings. Except in any of those instances enumerated under A.R.S. § 33-1804, all meetings of the Association and the Board of Directors of the Association (singularly or collectively, as applicable, referred to as the "Board", "Directors", or "Director") must be open to all Members to attend and listen. In the case of meetings of the Board, Members who are not part of the Board, however, are not be permitted to participate in any deliberation or discussion of the Board unless expressly authorized by vote of a majority of a quorum of the Board. The Board also may limit participation to eligible Members.

Section 1.10. Exemption of Private Property. The private property of each and every officer, Director, and Member of this Association at all times is exempt from all debts and liabilities of the Association.

ARTICLE II

MEETINGS OF MEMBERS

Section 2.01. Annual Member Meeting. The Association will hold annual meetings of the Members. The annual meetings of the Members will be held at the known place of business of the Association, unless a different location is designated by the Board of Directors. The first annual meeting of the Members will be held within 1 year after the adoption of these Bylaws; however, the first annual meeting of the Members must be held no later than 1 year after the date of the close of escrow on the first Unit sold by the Declarant to a Unit Owner. Each subsequent annual meeting of the Members will be held on a date and at a time set by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour of the next subsequent day that is not a legal holiday. The failure of the Association to hold an annual meeting of its Members, however, will not affect the validity of any corporate action.

Section 2.02. Special Member Meetings. Special meetings of the Members may be called at any time by the President or by a majority of the Board of Directors or by a written request signed by Members having at least 25% of the total number of eligible votes of each class of Members in the Association.

Section 2.03. Notice of Member Meetings. Written notice of each meeting of the Members (annual or special) will be given by, or at the direction of, the Secretary or person authorized to call the meeting by hand delivery or by mailing a copy of each notice, postage prepaid, at least 10 days and not more than 60 days before the meeting to each Member entitled

to vote at that meeting addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. The notice must specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. A Member may waive notice of the meeting before or after the date stated in the notice. Waiver of notice of the Member's meeting must be in writing, signed by the Member waiving notice, and delivered to the Association for inclusion in the books and records of the Association. By attending a meeting, however, a Member waives any right he/she may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the laws of the State of Arizona. The failure of any Member to receive actual notice of a meeting of the Members does not affect the validity of any action taken at that meeting.

Section 2.04. Member Quorum and Voting. Except as otherwise provided in the Articles, the Declaration, or these Bylaws, the presence (at the beginning of the meeting) in person or by proxy of Members entitled to cast 25% or more of the total number of eligible votes in the Association, regardless of class, constitutes a quorum for the purposes of holding a duly called and noticed meeting of the Members. If a quorum is not present at any meeting, the Members eligible to vote at the meeting will have the power to adjourn the meeting and to reschedule the meeting to another date and time without additional notice other than announcement at the meeting. At any subsequent meeting, the presence (at the beginning of the meeting) in person or by proxy of Members entitled to cast at least 10% of the total number of eligible votes in the Association, regardless of class, constitutes a quorum for the subsequent meeting. The Members at the meeting may continue to adjourn and reschedule until a quorum is present. Except as otherwise provided in the Articles, the Declaration, or these Bylaws, any action that must have the approval of the Members of the Association before being undertaken will require the vote of greater than 50% of the Members present (in person or proxy) and voting at a duly called and held meeting of the Members at which a quorum is present. Whenever the terms "eligible" votes or "eligible" Members are used in these Bylaws or the other Condominium Documents, both terms describe those Members that are permitted to vote on the matter and whose voting privileges have not been suspended or revoked. Unless the Condominium Documents specify otherwise, all approvals must be affirmatively given and may not be made in the negative or based on non-responses.

Section 2.05. Proxies and Absentee Ballots. During the Period of Declarant Control, at all meetings of the Members, a vote may be cast in person or by proxy. A proxy may be granted by any Member in favor of only another Member, any officer of the Association, the Declarant, or the First Mortgagee, or, in the case of a non-resident Member, the Occupant or the non-resident Member's attorney or managing agent. To be valid, a proxy must be duly executed in writing and must be filed with the Secretary at least 24 hours prior to the commencement of the meeting for which the proxy is given. A proxy will be valid only for the particular meeting designated in the proxy. A proxy will be deemed revoked only: (a) by attending the meeting and voting in person; or (b) by delivering written notice to the person presiding over the meeting, secretary of the Association, or designated vote tabulator of a revocation signed by the Member who granted the proxy. Except with respect to proxies in favor of a First Mortgagee, no proxy will be valid for a period in excess of 180 days after the execution of the proxy. Notwithstanding

any other provisions, after termination of the Period of Declarant Control, votes allocated to a Unit may not be cast by proxy. The Board of Directors shall provide for votes to be cast in person or by absentee ballot and may provide for voting by some other form of delivery. Notwithstanding A.R.S. § 10-3708, or the provisions of the Declaration, any action taken at an annual, regular or special meeting of the Members shall comply with all of the following if absentee ballots are used: (i) the absentee ballot shall set forth each proposed action; (ii) the absentee ballot shall provide an opportunity to vote for or against each proposed action; (iii) the absentee ballot is valid for only 1 specified election or meeting of the Members and expires automatically after the completion of the election or meeting; (iv) the absentee ballot specifies the time and date by which the ballot must be delivered to the Board of Directors in order to be counted, which shall be at least 7 days after the date that the Board of Directors delivers the unvoted absentee ballot to the Member; and (v) the absentee ballot does not authorize another person to cast votes on behalf of the Members. Votes cast by absentee ballot or other form of delivery are valid for the purpose of establishing a quorum.

Section 2.06. Eligibility. The membership of the Association will consist of all Unit Owners. Membership in the Association is mandatory, and no Unit Owner during his ownership of a Unit will have the right to relinquish or terminate his membership in the Association. By accepting a deed to a Unit or otherwise becoming a Unit Owner, each Unit Owner enters into a contract with the Association and the other Unit Owners whereby the Unit Owner becomes a Member of the Association and is bound by the terms of the Declaration, Articles and Bylaws, all as may from time to time be amended.

Section 2.07. Joint Ownership. When more than one person is the Unit Owner, all Unit Owners will be considered Members in the Association. The vote for a Unit with multiple Unit Owners will be exercised as they, among themselves, determine; however, no more than one vote may be cast with respect to any Unit. The votes for each Unit must be cast as a whole unit, and fractional votes are not allowed. If joint Unit Owners are unable to agree among themselves as to how their vote or votes are to be cast, they will lose their right to vote on the matter in question. If any Unit Owner casts a ballot representing a certain Unit, it will thereafter be conclusively presumed for all purposes that the Unit Owner was acting with the authority and consent of all other Unit Owners of the same Unit. If more than one ballot is cast for a particular Unit, none of the votes will be counted, and the votes will be deemed void.

Section 2.08. Corporate Ownership. If any Unit is owned by a corporation, partnership, limited liability company, association, or other legal entity, that legal entity will be the Member and that legal entity must designate, in writing, at the time of acquisition of the Unit, an individual who has the power to vote for the Unit. In the absence of a designation and until a designation is made, the chief executive officer or managing partner or managing member, as applicable, of the corporation, partnership, limited liability company, association, or other legal entity will have the power to cast the vote for the Unit. If there is no chief executive officer or managing partner or managing member, the Board of Directors of the Association will have the power to designate the person authorized to vote.

Section 2.09. Suspension of Voting Rights. If any Unit Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of the Declaration or the other Condominium Documents for a period of 15 days after its due date, the Unit Owner's right to vote as a Member of the Association will be suspended automatically and will remain suspended until all payments, together with accrued interest, late charges, attorney's fees, Collection Costs and other applicable charges, are brought current and kept current. If there exists any non-monetary violation of the Declaration or the other Condominium Documents with respect to a Unit or a Unit Owner, the Unit Owner's right to vote as a Member of the Association will be suspended automatically within 15 days after the Unit Owner's receipt of written notice from the Board of the violation, and the right of the Unit Owner to vote will remain suspended until the earlier of: (i) the cure of the violation by the Unit Owner; or (ii) a decision by the Board under Section 3.11 of these Bylaws that no violation exists.

ARTICLE III

BOARD OF DIRECTORS

Section 3.01. Number of Directors. The affairs of this Association will be managed by a Board of Directors. During the Period of Declarant Control, the Declarant shall have the right to appoint and remove members of the Board of Directors of the Association, who do not have to be Unit Owners. Elections for the Board of Directors may be conducted in any one of the following manners: (i) by voice vote, roll call vote, hand vote, or written ballot at an annual meeting of the Members; or (ii) by written ballot indicated by mail. During the Period of Declarant Control, the Directors need not be Members of the Association. After the termination of the Period of Declarant Control, all Directors must be members of the Association. The Board originally will be composed of the 2 persons designated in the Articles. After the termination of the Period of Declarant Control, the Board will be comprised of at least 3 Directors and up to 5 Directors provided, however, the members comprising the Board of Directors shall be set at an odd number as may be determined by the Board prior to the election of members to the Board of Directors.

Section 3.02. Board Term of Office. During the Period of Declarant Control, the Declarant shall have the right to appoint and remove members of the Board of Directors, who do not have to be Unit Owners. The first term of the Directors will end as of the date of the first annual meeting of the Members, and each subsequent term will end on the date of each subsequent annual meeting of the Members. If the number of Directors is expanded to any larger number as permitted by the Articles and these Bylaws, the additional Directors will serve 1 year terms.

Section 3.03. Removal and Resignation. During the Period of Declarant Control, the Declarant shall have the sole right to remove any or all Directors at any time. After the termination of the Period of Declarant Control, at any annual or special meeting of the Members duly called, any one or more of the Directors comprising the Board of Directors may be removed from the Board with or without cause by Members having 2/3 or more of the total number of eligible votes of the Members present in person or by proxy at the meeting, and, at the meeting

where the Director is removed, a successor may be elected to fill the vacancy created for the remaining and unexpired term. Any Director may resign at any time by giving written notice to the Board, the President, or the Secretary, and the resignation will be effective as of the date of its receipt or at any later time specified in this notice. If a resignation is effective at a later date, the Board may fill the vacancy within 60 days of the effective date of the resignation.

Section 3.04. Compensation. No Director will receive compensation for any service rendered to the Association; however, any Director may be reimbursed for actual expenses incurred in the performance of his/her duties.

Section 3.05. Notice to Members of Board Meetings. Unless a Member makes a specific written request for individual written notice of Board meetings, written notice of any regular or special meetings of the Board need not be given specifically to each Member, but rather notice of any regular or special meeting of the Board may be given in any manner determined by the Board at least 48 hours in advance of the meeting including conspicuous posting on Common Elements or other areas of the Condominium, newsletter, reminder notices with assessment invoices, or calendaring. Written notice of regular or special Board meetings must be provided only to those Members who request so in writing. A Member's request for individual written notice of Board meetings, however, is valid only for 1 year and must be renewed in writing to entitle the Member to continue to receive individual written notices. Notwithstanding the foregoing, however, the Board is not required to give any notice of regular or special meetings of the Board that are held during the Period of Declarant Control or of emergency meetings of the Board (whether during or after the Period of Declarant Control). The Directors also will have the right to take any action without holding a formal meeting by obtaining the unanimous written consent of all the Directors. All written consents of the Directors will be filed with the minutes of the proceedings of the Board.

Section 3.06. Vacancies on the Board. Vacancies on the Board caused by any reason other than the removal of a Director in accordance with the provisions of Section 3.03 of these Bylaws will be filled by a majority vote of the remaining Directors at the first regular or special meeting of the Board held after the occurrence of the vacancy, even though the Directors present at the meeting may constitute less than a quorum or an even number of Directors. Each person so elected will serve the unexpired portion of the prior Director's term.

Section 3.07. Regular Board Meetings. Regular meetings of the Board may be held at the time and place determined from time to time by the Board. Regular meetings will be held at least once during each fiscal year and must comply with Section 1.09 of these Bylaws.

Section 3.08. Special Board Meetings. Special meetings of the Board of Directors may be called by the President on 3 business days notice to each Director, given in writing by hand delivery, mail, or facsimile. This notice must state the time, place, and purpose of the special meeting. Special meetings of the Board may be called by the Secretary in like manner and on like notice upon the written request of at least 2 Directors.

Section 3.09. Quorum of Directors. A majority of the Directors present at the beginning of the meeting will constitute a quorum for the transaction of business. Unless otherwise specified by these Bylaws, the Articles, or the Declaration, every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present will be regarded conclusively as the act of the Board.

Section 3.10. Powers and Duties of the Board. All Association powers will be exercised by or under the authority of the Board of Directors. The Board will have all of the powers and duties necessary for the administration of the affairs of the Association and may exercise all rights and powers granted to the Association under the Condominium Documents and may perform all acts and make all decisions that are not required by the Condominium Documents to be exercised or performed by the Members. Specifically, but without limitation of the previous sentence, the Board will have the following powers and duties:

(a) Open bank accounts on behalf of the Association and designate the signatories of the Association;

(b) Make or contract for the making of repairs, additions, improvements, and alterations of the Common Elements, in accordance with (and as specified in) the Declaration and the Condominium Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

(c) In the exercise of its sole discretion, enforce by legal means the provisions of the Declaration and the Condominium Documents including, without limitation, the collection of any assessments;

(d) Designate, hire, and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Elements and provide services for the Members, and, where appropriate, provide for the compensation of the personnel (which or who may be affiliates of the Declarant) and for the purchase of equipment, supplies, and material to be used by the personnel in the performance of their duties;

(e) Provide for the operation, care, upkeep, and maintenance of all of the Common Elements and any other areas within the Condominium that the Association is permitted or required to maintain;

(f) Prepare, amend, and adopt annual budgets (maintenance and reserve) for the Association prior to the commencement of each fiscal year;

(g) Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the Members and their family members, guests, lessees, and invitees on the Common Elements and establish penalties for infraction in accordance with the provisions of A.R.S. § 33-1803;

(h) Suspend the voting rights and the right to the use of the Common Elements of a Member during any period in which the Member is in default in the

payment of any assessment or other amounts due under the terms of the Condominium Documents or during any period the Member is in non-monetary default of the Condominium Documents, subject to the applicable notice and grace periods established in these Bylaws;

(i) Exercise, on behalf of the Association, all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by Arizona law or the provisions of the Declaration or other Condominium Documents;

(j) Declare the office of a member of the Board of Directors to be vacant if a member is absent from 3 consecutive regular meetings of the Board;

(k) Employ, hire, and dismiss all employees of the Association as the Board deems necessary and to prescribe their duties and their compensation;

(l) Hire, employ, or terminate a manager or management company, whether as an independent contractor or as an employee, whether affiliated with Declarant or not, and delegate to that manager or management company the power to perform all services and duties as the Board may direct;

(m) Keep or cause to be kept a complete record of all acts of the Board and all corporate affairs and to establish procedures for inspections of the books and records of the Association by Members with a proper purpose for inspection, including establishing a reasonable fee (payable in advance) for all copies requested by a Member of the books and records;

(n) As more fully provided in the Declaration to: (i) fix the amount of the annual (Common Expense Assessment), Special Assessments, Assessment and any other assessments permitted to be assessed against each Unit or Unit Owner; (ii) send written notice of each assessment or other amounts due under the terms of the Condominium Documents to every Unit Owner subject to such assessment or amount; (iii) assess reasonable monetary penalties; (iv) record a notice and claim of lien against any Unit for which assessments or other amounts are not paid; and (v) enforce, through foreclosure or any other permitted action, the Association's lien or the personal obligation of the Unit Owner to pay assessments or other amounts;

(o) Issue, or cause an appropriate officer to issue, upon demand, to any appropriate person, any disclosure statement required under A.R.S. § 33-1806 or any payment statement required under A.R.S. § 33-1807.I., subject to the right of the Board to impose a reasonable charge for the issuance of these statements;

(p) Procure and maintain commercial general liability, hazard, and other insurance coverage in the amounts as required or permitted by the Declaration;

(q) Cause the Common Elements to be maintained, as more fully set forth in the Declaration, and to pay all taxes levied on the Common Elements;

(r) Institute, defend, and intervene in any litigation or administrative proceedings in its own name or on behalf of the Unit Owners;

(s) Borrow money and, with the consent of 2/3 of the total number of eligible votes of each class of Members in the Association, to mortgage, pledge, deed in trust, or grant a security interest in any or all of the Common Elements, other than capital improvements;

(t) Enter into and perform contracts of any kind incidental to the performance of the Association's duties under the Condominium Documents;

(u) Own, operate, and maintain all other property of the Association; and

(v) Establish reserves for short-term and long-term needs of the Association.

Section 3.11. Non-Monetary Violations. If the Board believes there is a non-monetary violation of the Declaration or the other Condominium Documents with respect to a Unit or any Unit Owner, the Board may send written notice to the offending Unit Owner describing the non-monetary violation. The Unit Owner will have a period of 15 days from receipt of the Board's written notice to either: correct the violation; or request in writing a hearing by the Board for the Unit Owner to explain why no non-monetary violation exists, why a specific approval of the violating item or conduct should be issued by the Board, why a period of more than 15 days is required to correct the violation, or why the Unit Owner otherwise protests the Board's notice of violation. A failure of the Unit Owner to correct the violation or make the written requests described above within this 15 day period will entitle the Board to exercise all rights available to it under the Condominium Documents or Arizona law with respect to the violating Unit Owner or Unit, including the right of self-help to correct the violation and the right to impose reasonable monetary penalties in amounts determined by the Board based on the severity and frequency of the violation and any other factor deemed relevant by the Board. If a hearing is requested and the Board and the requesting Member cannot otherwise agree on a date and time for the hearing, the Board will propose a minimum of 3 dates and times for the hearing. The requesting Member must select in writing 1 of the 3 dates, and a hearing will be held on the selected date. The hearing will be attended by the requesting Unit Owner and at least 1 of the Directors. The hearing will be conducted by the attending Director or an attending Director so designated by all attending Directors. The Unit Owner, on its own account or through legal counsel, will make an oral or written presentation, and, after the Unit Owner's presentation (although not necessarily at the meeting), the attending Director or Directors will report to and consult with the entire Board to make a decision on the Unit Owner's request. Any decision by a majority of the Board will be binding on the Unit Owner. Additional rules for the hearing may be adopted by the attending Director or Directors so long as the Member is given a reasonable opportunity to be heard. A decision by the Board also could include the imposition of reasonable monetary penalties on the Unit Owner. Any suspended voting rights will be reinstated upon the Member's cure of the non-monetary violation or the Board's favorable determination that no violation exists. Hearings conducted under this Section 3.11 that are attended by 1 or more of the Directors are not

meetings of the Board for purposes of the open meeting requirements of Section 1.09 of these Bylaws.

Section 3.12. Committees of Board. The Board may appoint committees to study or handle specific matters of the Association so long as at least 1 member of the Board serves on the committee. Committees designated by the Board are not subject to the open meeting requirements of Section 1.09 of these Bylaws or A.R.S. § 33-1804.

ARTICLE IV

OFFICERS AND THEIR DUTIES

Section 4.01. Enumeration of Officers. During the Period of Declarant Control, the Declarant shall have the right to appoint and remove officers of the Association, who do not have to be Unit Owners. After the Period of Declarant Control the principal officers of the Association will be the President, the Vice President, the Secretary, and the Treasurer all of whom will be elected by the Board. The President must be a member of the Board. Any other officers may, but need not, be members of the Board. The Association may elect any other officers, including additional Vice-Presidents and assistants to the Secretary. The offices of Secretary and Treasurer may be held by the same person.

Section 4.02. Election of Officers. The election of officers will take place at the first meeting of the Board following each annual meeting of the Members.

Section 4.03. Officer Term. The officers of the Association will be elected annually by the Board, and each officer will hold office for 1 year unless he/she sooner resigns, is removed, or is otherwise disqualified to serve.

Section 4.04. Special Appointments. The Board may elect any other officers as the affairs of the Association may require, each of whom will hold office for the period, have the authority, and perform the duties as the Board may determine from time to time.

Section 4.05. Resignation and Removal of Officers. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Any officer resignation will take effect on the date of receipt of the resignation notice or at any later time specified in the notice, and, unless otherwise specified in the resignation notice, the acceptance of the resignation will not be necessary to make it effective. If a resignation is effective at a later date, the Board may fill the vacancy before the effective date of the resignation so long as the successor does not take office until the effective date of the resignation.

Section 4.06. Vacancies in Offices. A vacancy in any office may be filled by appointment by the Board. The officer appointed to the vacancy will serve for the remainder of the term of the officer replaced.

Section 4.07. Powers and Duties of Officers. In addition to the execution of any affidavit of notice of the type described in A.R.S. § 33-1804.C. and the preparation and delivery of any disclosure statement required under A.R.S. § 33-1806 or A.R.S. § 33-1807.I., where and when delegated to the officers by the Board, the powers and duties of the officers are as follows:

(a) **President.** The President will preside at all meetings of the Board or the Members, ensure that orders and resolutions of the Board are carried into effect; and, at the direction of the Board, engage in the general and active management of the business of the Association;

(b) **Vice President.** The Vice President will act in the place and stead of the President in the event of his/her absence, inability, or refusal to act, and will exercise and discharge other duties as may be required of him/her by the Board;

(c) **Secretary.** The Secretary will record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal, if any, of the Association; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and perform all other duties as required by the Board; and

(d) **Treasurer.** The Treasurer will receive and deposit in appropriate bank accounts all monies of the Association and will disburse all funds as directed by resolution of the Board; keep proper books of account; and prepare an annual budget and a statement of income and expenditures of the Association; and, in general, perform all the duties incident to the office of Treasurer or as required by the Board.

ARTICLE V

INDEMNIFICATION

Section 5.01. Indemnification. The Association has the power and authority to indemnify any past or present Member, officer, Director, incorporator, employee, or agent of the Association to the fullest extent permitted by A.R.S. § 10-3202.B.2. and § 10-3850 *et seq.*, as these statutes (or any predecessor statutes) may be interpreted by applicable case law. This power of indemnification extends to third party actions and derivative actions, and includes indemnification for attorney fees, court cost, and other related expenses in addition to indemnification for judgment amounts.

Section 5.02. Procedure. The circumstances and procedures for effecting an indemnification by the Association will be governed by A.R.S. § 10-3850 *et seq.*, as this statute may be amended from time to time or supplemented by Arizona case law.

Section 5.03. Scope of Article. The indemnification provided by this Article V is not exclusive of any other rights to which those indemnified may be entitled under any agreement

approved by the Members or a majority of the disinterested Directors or otherwise, both as to an action in the person's official capacity and as to an action in another capacity while holding the office.

Section 5.04. Limitation of Liability for Certain Acts. So long as he/she has acted or has failed to act in good faith on the basis of information actually possessed, neither the Board nor any member of the Board nor any officer of the Association will be liable to the Association, any Unit Owner, or to any other party for any damage, loss, or prejudice suffered or claimed arising out of: (a) the approval or disapproval of any plans, drawings, or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any portion of the Condominium; (d) the execution and filing of any estoppel certificate, whether or not the facts in the estoppel certificate are correct; (e) any act or failure to act with respect to any matter involving the Condominium Documents; (f) the failure to provide a statement or an accurate statement of the matters required under A.R.S. § 33-1806 or § 33-1807; (g) the failure to approve any plans, drawings, and specifications; and (h) the performance of any other function of the Board or any officer of the Association.

ARTICLE VI

ALTERNATIVE DISPUTE RESOLUTION

Section 6.01. Arbitration Rules. All Bound ADR Parties, as identified and defined below, agree to encourage the amicable resolution of claims, grievances, controversies, disagreements, or disputes involving the Condominium or the Condominium Documents in order to avoid or limit wherever possible the emotional and financial costs of litigation. Accordingly, each Bound ADR Party covenants and agrees that all Covered Claims, as defined below, between one or more Bound ADR Party must be resolved using the alternative dispute resolution procedures set forth below in lieu of filing a lawsuit or initiating administrative proceedings. The term "Bound ADR Parties" means the Association, Board, Declarant, any affiliate of Declarant, any Unit Owner, any property manager or association manager for the Condominium, all Unit Owners, any occupant, and any person who voluntarily agrees to be subject to the dispute resolution procedures described below. Unless they otherwise agree, First Mortgagees are not Bound ADR Parties. The term "Covered Claims" means all claims, grievances, controversies, disagreements, or disputes that arise in whole or part out of: (a) the interpretation, application, or enforcement of the Declaration or the other Condominium Documents; (b) any alleged violation of the Condominium Documents by any of the Bound ADR Parties; (c) the authority of the Association or the Board to take or not take any action under the Condominium Documents; (d) the failure of the Declarant or the Association or the Board to properly conduct elections, give adequate notice of meetings, properly conduct meetings, allow inspection of books and records, or establish adequate warranty and reserve funds; or (e) the performance or non-performance by any of the Bound ADR Parties of any of their respective obligations or responsibilities under the Condominium Documents to or on behalf of any other Bound ADR Party, all of which are not subject to further review under the alternative dispute resolution

procedures or legal action). The term "Covered Claims", however, specifically does not include any Exempt Claims of the type described below.

Section 6.02. Exempt Claims. The following claims, grievances, controversies, disagreements, and disputes (each an "Exempt Claim" and, collectively, the "Exempt Claims") are exempt from the alternative dispute resolution provisions described in these Bylaws:

(a) **Collection of Assessments.** Any action taken by the Association against any Bound ADR Party to enforce the collection of any assessments, to enforce or foreclose any lien in favor of the Association, or to determine the priority of any lien for assessments;

(b) **Specific Actions.** Any claim, grievance, controversy, disagreement, or dispute that primarily involves:

(i) Title to any Unit or Common Elements;

(ii) A challenge to a property taxation or condemnation proceeding;

(iii) The eviction of an Occupant;

(iv) The breach of fiduciary duty by any one or more of the Board of Directors or officers of the Association;

(v) The rights of any First Mortgagee;

(vi) An employment matter between the Association and any employee of the Association; or

(vii) The invalidation of any provision of the Declaration or any of the covenants and restrictions contained in the Condominium Documents.

(c) **Injunctive Relief.** Any suit by the Association to obtain a temporary or permanent restraining order or equivalent emergency equitable relief (together with any other ancillary relief as the court may deem necessary) in order to maintain the then-current status of the Condominium and preserve the Association's ability to enforce provisions of the Condominium Documents and the use restrictions contained therein;

(d) **Unit Owner Actions.** Any suit solely between Unit Owners (that does not include as a party the Association, Declarant, seeking redress on any Covered Claim that would constitute a cause of action under federal law or the laws of the State of Arizona regardless of the existence of the Condominium Documents;

(e) **Separate Written Contracts.** Any action arising out of any separate written contract between Unit Owners or between the Declarant and any Unit Owner that

would constitute a cause of action under the laws of the State of Arizona regardless of the existence of the Condominium Documents;

(f) **Not Bound Parties.** Any suit in which less than all parties are Bound ADR Parties (unless the parties that are not Bound ADR Parties voluntarily agree to be subject to the alternative dispute resolution procedures established herein; and

(g) **Items Covered by the Declaration.** Any actions or claims made (i) by the Association against Declarant; (ii) by any Unit Owner(s) against Declarant; or (iii) by both the Association and any Unit Owner(s) against the Declarant, relating to or arising out of the Condominium as specifically provided in the Declaration.

Any Bound ADR Party having an Exempt Claim may submit it to the alternative dispute resolution procedures established herein, but there is no obligation to do so and no obligation of any other Bound ADR Party to agree to have the Exempt Claim submitted to the alternative dispute resolution procedures. The submission of an Exempt Claim involving the Association or Declarant to the alternative dispute resolution procedures below requires the approval of the Association or Declarant, as applicable.

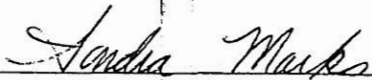
Section 6.03. Enforcement of Resolution. This agreement of the Bound ADR Parties to negotiate, mediate, and arbitrate all Covered Claims is specifically enforceable under the applicable arbitration laws of the State of Arizona. After resolution of any Covered Claim through negotiation, mediation, or arbitration in accordance with the provisions outlined above, if any Bound ADR Party fails to abide by the terms of any agreement or Arbitration Award, any other Bound ADR Party may file suit or initiate administrative proceedings to enforce the agreement or Arbitration Award without the need to again comply with the procedures set forth above. In this case, the Bound ADR Party taking action to enforce the agreement or Arbitration Award is entitled to recover from the non-complying Bound ADR Party (or if more than one non-complying Bound ADR Party, from all non-complying Bound ADR Parties pro rata) all costs incurred in enforcing the agreement or Arbitration Award, including, with limitation, attorney fees, and court costs.

Section 6.04. Amendments to Article VI. The alternative dispute resolution procedures established in Article VI of these Bylaws may not be modified, amended, terminated, or waived in any manner without Declarant's prior and express written consent, as evidenced by a recorded instrument, for so long as Declarant owns at least 1 Unit within the Condominium. After Declarant ceases to own at least 1 Unit within the Condominium, the alternative dispute resolution procedures of Article VI may be modified, amended, or terminated in accordance with the procedures established in the Condominium Documents; however, to the extent any Covered Claim still involves the Declarant, the Declarant can elect for the Covered Claim to be governed by the alternative dispute resolution procedures previously contained in the Condominium Documents (as though not modified, amended, or terminated).

ARTICLE VII

Section 7.01 Statutes. Any reference to a specific Arizona Revised Statute shall include any successor statutes.

I certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association as of December 1, 2008.



Sondra Marks, President

Attest:

Rui Barros, Secretary

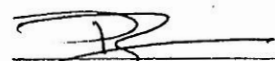
ARTICLE VII

Section 7.01 Statutes. Any reference to a specific Arizona Revised Statute shall include any successor statutes.

I certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association as of December 1, 2008.

Sondra Marks, President

Attest:



Rui Barros, Secretary